EDMUND G. BROWN JR. Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General CHRISTINA THOMAS Deputy Attorney General 4 State Bar No. 171168 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-2557 6 Facsimile: (213) 897-2804 7 Attorneys for Complainant 8 BEFORE THE **BOARD OF REGISTERED NURSING** 9 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 10 2010-191 11 In the Matter of the Accusation Against: Case No. 12 AMY MICHELE MARTIN ACCUSATION 207 Irene Street 13 Bakersfield, CA 93305 Registered Nurse License No. 645511 1-1 Respondent. 1.5 16 17 **PARTIES** 18 Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her 19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department 20 of Consumer Affairs. 21 2. On or about September 27, 2004, the Board of Registered Nursing (Board) issued 22 Registered Nurse License Number 645511 to Amy Michele Martin (Respondent). The Registered 23 Nurse License was in full force and effect at all times relevant to the charges brought herein. It 24 expired on September 30, 2008, and has not been renewed 25 /// 26 111 27 III28 H

Accusation

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the heensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued...
- 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct

. . . .

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 7. Section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

. . . .

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."

8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . ."

COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially-Related Crimes)

- 11. Respondent is subject to disciplinary action under section under section 490, and section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, as a result of Respondent's convictions of crimes that are substantially related to the qualifications, functions, and duties of a registered nurse.
- a. On or about September 19, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under the influence] in the criminal proceeding entitled *People v. Amy M. Martin* (Super. Ct. Kern County, 2008, No. BM719230A). Respondent was sentenced to 180 days in jail and placed on three years probation. The underlying arrest occurred on or about October 1, 2007, when officers of the California Highway Patrol pulled Respondent over for weaving in and out of

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traffic lines at a speed of 85 miles an hour, and then determined that she was intoxicated. After booking, a breathalyzer test indicated a blood-alcohol content level of .18%.

- b. On or about September 19, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under the influence] in the criminal proceeding entitled *People v. Amy Michele Martin* (Super. Ct. Kern County, 2008, No. BM728286A). Respondent was sentenced to 180 days in jail and placed on three years probation. The underlying arrest occurred on or about February 13, 2008, when officers of the Bakersfield Police Department observed Respondent to be intoxicated while they were investigating a traffic accident in which Respondent drove through an intersection in reverse and collided with another car.
- c. On or about June 9, 2006, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with a blood-alcohol content greater than .08%] in the criminal proceeding entitled *The People of the State of California v. Amy Michele Martin* (Super. Ct. Los Angeles County, 2006, No. 6PS02257). Respondent was placed on three years probation and ordered to complete a three-month drug and alcohol education program. The underlying arrest occurred on or about June 9, 2006, when officers of the Pasadena Police Department stopped Respondent for driving erratically, and then determined that she was intoxicated based on her unsteady gait, bloodshot eyes, and failed field sobriety tests.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (b), as a result of Respondent's use of alcohol in a manner dangerous to herself and others to the extent that it impaired her ability to function safely as a registered nurse. Complainant refers to and incorporates all the allegations contained in paragraph 11, including its subparagraphs, as though set forth fully.

ADDITIONAL DISCIPLINARY CONSIDERATIONS

- 13. As an additional disciplinary consideration, Complainant alleges that Respondent was convicted of four additional crimes, which she disclosed on her application for licensure on or about September 27, 2004.
- a. On or about September 14, 2000, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving with a suspended license] in the criminal proceeding entitled *People v. Amy Michele Martin* (Super. Ct. Kern County, 2000, No. BM590402A).
- b. On or about October 30, 1996, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 273.5, subdivision (a) [domestic abuse], and one misdemeanor count of violating Penal Code section 245, subdivision (a) [assault with a deadly weapon] in the criminal proceeding entitled *People v. Amy Michele Martin* (Super. Ct. Kern County, 1996, No. BM535995A).
- c. On or about February 21, 1996, after pleading nolo contendere. Respondent was convicted of one misdemeanor count of violating Penal Code section 460, subdivision (b) [second-degree burglary] in the criminal proceeding entitled *People v. Amy Michele Martin* (Super. Ct. Kern County. 1996, No. BM524918A).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

l.	Revoking	or suspending	g Registered	Nurse Licens	e Number (545511,	issued to
Responde	ent;						

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1	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and						
2	enforcement of this case, pursuant to section 125.3; and						
3	3. Taking such other and further action as deemed necessary and proper.						
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5	DATED: 10/5/09 Louise R. Bailey						
6	ROUSER BAHLEY, M.ED. &						
7	Board of Registered Nursing Department of Consumer Affairs						
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